

**DEPARTMENT OF FOOD AND AGRICULTURE**

William (Bill) J. Lyons, Secretary

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**NOTICE OF A CONSOLIDATED PUBLIC HEARING TO CONSIDER  
AMENDMENTS TO THE STABILIZATION AND MARKETING PLANS  
FOR MARKET MILK FOR THE NORTHERN CALIFORNIA AND  
SOUTHERN CALIFORNIA MARKETING AREAS**

Notice is hereby given that the California Department of Food and Agriculture is calling a consolidated public hearing to consider amendments to the Stabilization and Marketing Plans for Market Milk for the Northern California and Southern California Marketing Areas (Plans).

**Hearing Date, Place and Time** - The hearing will be held on November 29, 2001, in Sacramento, California at the Department of Food and Agriculture Auditorium at 1220 N Street in Sacramento. The hearing will begin at 9:00 a.m.

If necessary to ensure opportunity for all persons in attendance on November 29 who wish to testify to present testimony and evidence into the hearing record, the hearing may be continued to the following day, November 30, 2001, in the Resources Building Auditorium at 1416 Ninth Street.

The hearing is being called pursuant to Articles 7 and 8, Chapter 2, Part 3, Division 21 of the Food and Agricultural Code (FAC), as implemented by Title 3, Section 2080.2 of the California Code of Regulations (3 CCR 2080.2).

**Petitions Received by the Department** - On October 15, 2001, the Department received a petition from California Dairies, Inc. (CDI), requesting a public hearing to consider amendments to the Plans. On October 18, 2001, the Department received amendments to the October 15 petition from CDI.

The CDI petition, as amended, proposes amendments to the Class 4a pricing formula (milk used for manufacturing milk into butter and nonfat dry milk) that would result in lower Class 4a prices.

On October 19, 2001, the Department received a second petition submitted by Land O' Lakes, Inc (LOL). This petition requested that, if a hearing is granted as a result of the CDI petition, the Class 4b pricing formulas (milk used to make cheese other than cottage cheese) also be considered. The LOL petition proposes amendments to the Class 4b pricing formulas that would result in lower Class 4b prices.

These petitions are considered pursuant to FAC Sections 62031 through 62079, and 3 CCR 2080.2. A copy of both petitions can be obtained by contacting the Dairy Marketing Branch at (916) 654-1456 or by accessing the Department's web site at [www.cdfa.ca.gov/dairy](http://www.cdfa.ca.gov/dairy). From the web site, click on "Dairy Industry News" and then "Petitions Received by the Department" and scroll down to the reference to the petition.

The Secretary may call a hearing to adopt, amend or terminate Plans on the Secretary's own motion (FAC Section 62032) or on receipt of a petition from any interested party (3 CCR 2080.2). The hearing noticed herein will be conducted in accord with the procedures prescribed in 3 CCR 2080.4.

**Call of Hearing** - The hearing is to consider the proposals contained within the CDI and LOL petitions. Since the proposals would affect prices for Class 4a and 4b milk, the call of this hearing will include for consideration, in addition to the Class 4a pricing formulas, consideration of Class 2 and Class 3 pricing formulas because portions of those pricing formulas are linked to Class 4a prices. Because the petitions propose changes to pricing levels, consideration will primarily focus upon pricing levels. The hearing will also consider the factual basis, evidence and the legal authority upon which to make any and/or all of the proposed amendments to the Plans. (Reference Article III, Section 300, Subparagraphs (B)(1), (B)(2), (C)(1), (C)(2), (D)(1), (D)(2) and (E)(1) of the Plans.)

Interested parties should also refer to the pricing criteria established in FAC Article 9, Chapter 2, of Part 3, Division 21 and the declarations, purposes, goals and requirements of the Milk Stabilization Program as codified in FAC Chapter 2 and FAC Sections 62062, and 62063.

**Alternative Proposals** - Interested parties are encouraged to submit proposals detailing alternatives to deal with the issues raised in the call of the hearing. As noted above, the hearing will focus on proposed amendments to the price levels specified in the Plans for Classes 2, 3, 4a and 4b. Alternative proposals should focus on changes to:

- The Class 2 and 3 differentials (currently 3.7¢ and 3.93¢ per pound of fat and 5.86¢, 6.43¢ and 9.01¢ per pound of solids-not-fat); and
- The Class 4a and 4b manufacturing cost allowances (currently 9.7¢ per pound of butter, 14¢ per pound of nonfat dry milk and 16.9¢ per pound of Cheddar cheese)

Alternative proposals must be received by the Department's Dairy Marketing Branch by 4:00 p.m. on November 9, 2001. Alternative proposals should be mailed to:

Hearing Officer  
c/o The Dairy Marketing Branch  
California Department of Food and Agriculture  
1220 N Street, Room A-224  
Sacramento, CA 95814

Proposals can also be faxed to (916) 654-0867. In addition to a signed copy, please e-mail a copy of the proposal to: [dairy@cdfa.ca.gov](mailto:dairy@cdfa.ca.gov) so we can more easily post it to our web site.

At the hearing, the Department will receive testimony and evidence, both oral and documentary. Interested parties who wish to introduce testimony and/or exhibits should provide the Hearing Officer at the hearing with six (6) copies of such documents for the official record, as well as one copy for the court reporter. In addition, the Department encourages participants to make additional copies available for use by other hearing participants.

Copies of the transcripts of testimony received at the hearing will not be available for distribution through the Department, but are available for inspection at the Dairy Marketing Branch. If interested parties wish to purchase copies, arrangements may be made with the reporting service either at the hearing, or by contacting Peter's Shorthand Service at (916) 362-2345.

**Final Decisions Resulting from the Hearing** - The final decisions resulting from this hearing will be issued in accordance with the procedures and criteria contained in Chapter 2 of Division 21 of the FAC, as necessary.

The Department's decision will include consideration of all relevant economic factors including, but not limited to, the following:

- The reasonableness and economic soundness of market milk prices for all classes, giving consideration to combined income from those classes, in relation to cost of production and marketing for all purposes including manufacturing;
- Whether prices will insure an adequate and continuous supply, in relation to demand, of pure, fresh, wholesome market milk for all purposes, including manufacturing purposes, at prices to consumers which, when considered with relevant economic criteria, are fair and reasonable;
- Whether prices, including the prices of components of milk, established by the Secretary for the various classes of market milk bear a reasonable and sound economic relationship to each other;
- Whether the amendments would be in accord with all the purposes, policies, and standards contained in Sections 61801, 61802, 61805, 61806, 61807, 62062, 62063, 62074.5, 62076 and 62077.

**Ex Parte Communications Prohibited** - From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decision-making process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. Procedural matters are not subject to the above prohibition and may be discussed at any time.

**Public Workshop** - To assist interested persons in preparing for the hearing, a public workshop will be held in Sacramento on November 15, 2001. The workshop will be held at the Hyatt Regency Hotel, 1209 L Street, Sacramento and will begin at 9:00 a.m. At this workshop, interested persons can review and discuss all proposals submitted with Department staff and other interested parties. The Department will supply background and analysis of the petitions and alternative proposals submitted by the November 9 deadline. The workshop will be informal and educational in nature. Discussion during the workshop will not be part of the official hearing record.

There will be a Department hearing exhibit folder for this hearing. The folder will contain recent, relevant information and data to the call of the hearing. The hearing exhibit folder for this hearing will be available for public inspection at the Sacramento office of the Dairy Marketing Branch on November 22, 2001.

If any interested party has questions regarding the call of this hearing or needs assistance in developing language for a proposal, please contact Eric Erba or Tom Gossard at (916) 654-1456.

All interested persons are invited to attend and participate in both the public workshop and the hearing. Interested parties are encouraged to present any data or information that is relevant to the consideration of the issues raised in the call of this hearing.

**Persons with Disabilities** - The Department of Food and Agriculture wishes to ensure that all members of the public have access to all public meetings. If you require a special accommodation, please contact Cheryl Gilbertson at (916) 654-1456 or TDD (800) 735-0193 at least five days before the workshop or hearing date.

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Kelly Krug, Director  
Division of Marketing Services

Date \_\_\_\_\_